IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 19TH NOVEMBER 2007 / 28TH KARTHIKA 1929

Bail Appl..No. 6804 of 2007()

CRIME NO.443/2007 OF BEKAL POLICE STATION

PETITIONERS/ACCUSED 1 TO 6

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1. KAPPIL MOHAMMED PHASHA,
   S/O KAPPIL ABDUL KADHER, GREEN VILLA,
   KAPPIL P.O., BEKAL, PALLIKKARE-II VILLAGE.

2. K.B.M.SHAREEF, S/O ABDUL RAHIMAN,
   SANABIL VILLA, KAPPIL, P.O.UDMA,
   UDMA VILLAGE.

3. KADHER KATHEEM, S/O ABDULLA,
   KAPPIL KATHIM HOUSE, P.O.UDMA,
   UDMA VILLAGE.

4. T.K.MOOSA, S/O T.K.ABDULLAH,
   THEKKEKARA HOUSE, P.O.UDMA,
   UDMA VILLAGE.

5. KAPPIL MOHAMMED SHIYAZ,
   S/O KAPPIL MOHAMMED PHASHA,
   GREEN VILLA, KAPPIL, P.O.BEKAL,
   PALLIKKARE II VILLAGE.

6. ABDUL SATHAR MUKKUNNOTH,
   S/O MOHAMMED KUNHI, MUKKUNNOTH HOUSE,
   P.O.BARE, VIA, UDMA, UDMA VILLAGE.

BY ADV. SRI.K.A.JALEEL

RESPONDENTS: COMPLAINANT

STATE OF KERALA,(REP. BY SUB INSPECTOR
OF POLICE, BEKAL POLICE STATION - CR.443 OF
2007 OF BEKAL POLICE STATION) REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 6804 of 2007

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Dated this the 19th day of November, 2007

ORDER

Application for anticipatory bail. The petitioners were arrayed as accused 1 to 6 in a crime registered for offences punishable , inter alia, under Section 308 read with 149 IPC. The alleged incident took place on 27.10.07. On that day there was a call for hartal. The alleged incident took place at about 10 a.m. There are allegations and counter allegations raised regarding the incident. Crime has been registered against six named persons (petitioners herein) and eight others. The allegation in the FI statement is that a bamboo stick was used by the miscreants to attack the person who was proceeding on a two wheeler. According to the doctor in the wound certificate, the allegation is that an iron rod was used for the commission of crime.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The allegations are being raised vexatiously. The incident in this case is a sequel to the disputes between the workers of IUML and CPM. The petitioners are victims of aggression. The members of the ruling party had attacked and it is under their influence that the false case has been registered against the petitioners. In any view, it is very evident that the allegations under Section 308 IPC have been raised with transparent mala fides.

In these circumstances anticipatory bail may be granted to the petitioners, prays the learned counsel for the petitioners.

3. The learned Public Prosecutor submits that though petitioners 1 & 4 are named in the FIR as accused 1 and 4, the investigation now reveals that there is no offence committed by them. Hence this application for anticipatory bail may be dismissed in so far as those petitioners are concerned. The learned Public Prosecutor does not oppose the prayer for anticipatory bail of the other petitioners. Subject to appropriate conditions, petitioners can be granted anticipatory bail, he submits.

4. Having considered all the relevant inputs, I am satisfied that petitioners can be granted anticipatory bail. In the absence of opposition, it is not necessary for me to advert to facts in any greater detail.

5. In the result this petition is allowed in part. The petition, in so far as it relates to petitioners 1 & 4, is hereby dismissed as unnecessary.

6. The following directions are issued in favour of the petitioners 2,3,5 &6 who now stands on the array as accused 1 to 4. under Sec.438 Cr.P.C.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 26.11.2007.

ii) They shall be released on regular bail on condition that

they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 12 noon on 27.11.07 and 28.11.07 and thereafter on all Mondays for a period of one month. Subsequently the petitioners shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(v) If they were arrested prior to 26.11.2007, they shall be released from custody on their executing a bond for Rs.25,000/-(Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 26.11.2007.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE